

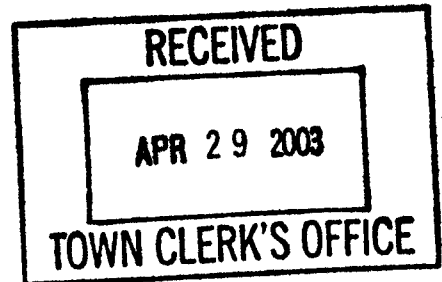
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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APRIL 14, 2003

MEMBERS PRESENT: MICHAEL KANE  
LEN MCDONALD  
MICHAEL REIS  
STEPHEN RIVERA



ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

MYRA MASON  
ZONING BOARD SECRETARY

ABSENT: LAWRENCE TORLEY, CHAIRMAN

REGULAR MEETING

MR. KANE: I'd like to call the April 14, 2003 zoning board meeting to order.

MINUTES OF MARCH 24, 2003

MR. KANE: Motion to accept the minutes of March 24, 2003.

MR. MC DONALD: So moved.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE

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MR. MC DONALD  
MR. KANE

AYE  
AYE

PRELIMINARY MEETINGS

RICHARD DICKERMAN (#03-15)

MR. KANE: Request for 7 ft. required front yard setback for existing one-family home on Ona Lane in R-4 zone.

Alan Lewis, Esq. appeared before the board for this proposal.

MR. LEWIS: My name is Alan Lewis, I'm the attorney for Dr. Richard Dickerman. This is an application for a 7 foot front setback variance. Although it's our understanding that when the house was built, it was in compliance with all existing codes and regulations. Dr. Dickerman bought it in August of 1981 and we haven't been able to find exactly what the problem was in terms of a zoning problem at that time. We're prepared to go forward with the variance if we're requested but if it was in compliance with the existing codes at the time it was built, I would ask that it simply be grandfathered in and that a C.O. be issued so that he can proceed with the sale of property.

MR. KANE: I think the only way we could grandfather something in is if they preceded zoning altogether, if not, we need to clear it up with a variance.

MR. KRIEGER: Yes, if it was in compliance that's understandable but if there was no C.O. granted, the compliance measured at the time the C.O. is issued, it's the problem, I was sort of waiting to listen to hear what the problem was.

MR. KANE: Mike, can you shed any light on this? Do they have an existing C.O. for the house?

MR. BABCOCK: I don't think they would be here, Mr. Chairman, if they had, I'm searching the file right now. Yeah, they're renewing a building permit for the existing house. Apparently, the existing house doesn't have a C.O. It was built in 1967.

MR. KANE: The house itself was built in '67?

MR. BABCOCK: Yes.

MR. KANE: Zoning was '66?

MR. BABCOCK: Yes.

MR. KANE: Since '67 they just kept renewing the permit or they just built the house and let it ride?

MR. BABCOCK: Yes, just forgot to get a C.O., never was issued a C.O. or really don't know what the reason was.

MR. KANE: Okay, the best in my opinion, Andy can correct me, the best that I can see is to go ahead and proceed to get the variance and clear everything up since we're not exactly sure who was at fault and I don't think there's anything we can do one way or the other about it. We need to get a C.O. on the building, to do that, we need a variance on the front yard setback, correct?

MR. BABCOCK: Correct.

MR. LEWIS: We'll proceed as quickly as possible.

MR. REIS: If you can bring pictures, it would be helpful.

MR. LEWIS: I think they were submitted with the application. Anything else that you need, just let me know, I can leave you my card and we'll be happy to move on this as quickly as possible. There's a pending contract of sale of the property, this is why this situation even came to light and we're concerned that if too long a time transpires, we may lose the prospective purchaser.

MR. KANE: If the board sets you up for a public hearing, the speed of that will be up to you with getting the requirements done and the paperwork in.

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

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MR. REIS: I make a motion that we set Mr. Richard Dickerman up for his required variance at Ona Lane.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

PUBLIC HEARINGS

ALEXANDER COUZIS (#03-12)

Mr. Alexander Couzis appeared before the board for this proposal.

MR. KANE: Request for interpretation of residence as a single-family with two kitchens at 108 Shaker Court North in a CL zone.

MR. KANE: Tell us what you want to do and why you're here.

MR. COUZIS: We were finishing the basement of our house on 108 Shaker Court North following all the rules, had the electric inspection before the closing and then it came time for the final inspection after we got the electrician's final inspection and the Town Engineer, the Town Inspector mentioned the fact that because there was a sink and cabinets in the laundry room that we needed to state in a public hearing there's no intention that the laundry room will be used as a second kitchen that would set the house up for a two family house. That's never been the intention, we finished the laundry room with a sink instead of a usual slop sink primarily for space and to make it look nice, that was the intention.

MR. KANE: There's no second gas meter or electric meter coming into the home?

MR. COUZIS: No.

MR. MC DONALD: Just a laundry room?

MR. COUZIS: Exactly. We put a stainless steel sink instead of a slop sink across from the washing machine and the cabinets so at the time we could put laundry and detergents, et cetera.

MR. KRIEGER: So it's a single family home and will always be a single family home?

MR. COUZIS: That's the intention.

MR. KRIEGER: Bought it that way and you operate it that way?

MR. COUZIS: Yes.

MR. KANE: There are a couple people in the audience for a public portion so we'll go ahead and open it up to the public. If anybody has any questions about this case whatsoever?

MR. O'HARE: James T. O'Hare, 9 Shaker Court, New Windsor. Wanted to make sure it's going to stay a single family house and was it going to be a double.

MR. KANE: Thank you. And nobody else has anything to say? Okay, on that, we'll close the public portion of the hearing, bring it back to the board.

MR. RIVERA: How many notices were sent?

MS. MASON: On March 17, 27 notices were mailed out.

MR. KANE: Any further questions, gentlemen?

MR. RIVERA: No.

MR. MC DONALD: Accept a motion?

MR. KANE: Yes.

MR. MC DONALD: Make a motion we grant Mr. Couzis his request for interpretation of a residence as a single family dwelling and intends to keep it that way at 108 Shaker Court.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

ROBERT DEPAOLIS (#03-15)

MR. KANE: Request for 6 ft. side yard and 37 ft. rear yard setbacks to construct a pool and a deck on Constitution Way in an R-3 zone.

Mr. Robert Depaolis appeared before the board for this proposal.

MR. KANE: Let us know what you want to do.

MR. DEPAOLIS: I just put a pool in.

MR. KANE: Okay, your request for a 6 foot side yard variance and a 37 foot rear yard setback for the pool and deck?

MR. DEPAOLIS: Yes.

MR. KANE: Are you going to be cutting down any trees or creating any water hazards with the building of this pool?

MR. DEPAOLIS: No.

MR. KANE: The deck itself will be in similar size to other decks in the neighborhood?

MR. DEPAOLIS: Yes.

MR. REIS: Can you tell us why you cannot accommodate the zoning requirement as it is?

MR. DEPAOLIS: I don't have enough room in the back yard.

MR. REIS: Just that tight?

MR. DEPAOLIS: Yeah, I'm 37 feet from the house.

MR. KANE: You have an opening coming out of your home with sliding doors, so without the deck, it would be considered a safety hazard?

MR. DEPAOLIS: Well, yes.



MR. MC DONALD: Is this in The Reserve?

MR. BABCOCK: Yes, it is.

MR. MC DONALD: Is this the first of many?

MR. KANE: Probably.

MR. RIVERA: Notices sent out?

MR. KANE: You can state that.

MS. MASON: On March 17, 31 notices were mailed out.

MR. KANE: We'll open this up. Is there anybody in the public for this meeting? Would you have something to say? State your name and address.

MS. BRIGGS: Dolly Briggs, 2406 New Windsor, New York. I received a notice, I live behind him and I just show up because I just, you know, received it, I didn't know what it was about.

MR. KANE: What he's doing is he needs to put a deck and a pool up and because of the configuration of his yard, he needs certain variances just to get that pool and deck in there and there are certain requirements, offsets that he needs to meet and with the configuration of his yard, he doesn't meet that so he's looking for a variance on that.

MS. BRIGGS: Meaning that he needs like--

MR. KANE: He needs to be, well, for instance, I'm going to say 10 feet, Mike?

MR. BABCOCK: For the pool, yes.

MR. KANE: For the pool he'd need a 10 foot side yard setback.

MS. BRIGGS: We have to give him some of ours?

MR. KANE: No, he's not allowed to build anything

within ten feet of his property line. Since his yard is small, he needs to vary that by 6 foot so he can be within 4 feet of his property line. So to legally do that, he has to come in here and make a variance. He's not going to infringe on your property whatsoever.

MS. BRIGGS: So what's the meaning of sending me the notice, just letting me know?

MR. KANE: By New York State law, he has to notify anybody within 500 feet of his home.

MS. BRIGGS: Okay.

MR. KANE: Do you have any problem with him putting a pool or deck in?

MS. BRIGGS: No.

MR. KANE: Thank you. Anybody else in the public? Okay, on that, I'll close the public portion of this meeting and open it back up to us. The pool and the deck that you're building is going to be similar in size and nature to other pools and decks in your neighborhood?

MR. DEPAOLIS: Yes.

MR. MC DONALD: Not creating any kind of a water runoff?

MR. DEPAOLIS: No, no, it's flat there.

MR. BABCOCK: Mr. Chairman, just to go back to the preliminary, the gentleman had drew his deck 4 foot from the property line and the zoning board had asked him at the preliminary to cut it off even with the deck with the pool and be 6 foot from the property line so we're all clear.

MR. KANE: So we did that, correct. And the notice, Michael, he only needs a 4 foot side yard variance?

MR. BABCOCK: No, he needs a 6 foot.

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MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we grant Mr. Depaolis his requested variances for Constitution Way for his pool and deck.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

CACCIOLA, CELESTE (#02-53)

MR. KANE: Request for interpretation of existing residence as a single-family home with converted garage to living space with a kitchen at 352 Shelly Road in an R-4 zone.

Mrs. Celeste Cacciola appeared before the board for this proposal.

MR. KANE: How you doing, Celeste? Same as in the preliminary hearing, tell us what you want to do.

MS. CACCIOLA: Just want a garage, we converted it to a kitchen, single family, I don't ever intend to be anything else but a single family, it has no separate gas, no separate electric.

MR. KANE: When did you convert the garage space into a kitchen?

MS. CACCIOLA: Fifteen, twenty years ago.

MR. KANE: Any complaints formally or informally about that?

MS. CACCIOLA: I've never had a complaint, never.

MR. KANE: Again, it's your intention to keep this as a single family and always use it that way?

MS. CACCIOLA: Never anybody in there, never, it's for the purpose of my husband who's not a well man and cannot climb stairs, he's on oxygen and he can never, it was for his convenience.

MR. MC DONALD: Something like a summer kitchen?

MS. CACCIOLA: Yeah, no intention of ever having--

MR. RIVERA: Is this a garage door that slides up and down?

MS. CACCIOLA: Well, no, we put a front door in next because with a double garage, two family garage or two

car garage and for his convenience because he cannot climb, he's on oxygen.

MR. KANE: Is there, I'll move to the public portion of this meeting, is there anybody in the audience that's here for this particular meeting? On that, I'll close the public portion and ask how many mailings did we have?

MS. MASON: On the 28th of March, we mailed out 72 addressed envelopes.

MR. MC DONALD: Any written responses at all?

MS. MASON: No.

MR. KANE: No written, we'll close that.

MR. REIS: I have no further questions.

MR. MC DONALD: No questions.

MR. REIS: Accept a motion?

MR. KANE: Yes.

MR. RIVERA: I move we grant Celeste Cacciola the requested interpretation of the existing residence as a single family home with a converted garage to living space with a kitchen at 352 Shelly Road.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

EUGENE HECHT (#03-14)

MR. KANE: Request for area variance of Section 48-18H(a) for 96 square feet (total all faces) for freestanding sign at 161 Windson Highway (formerly Pleasant Acres) in a C zone.

Mr. Eugene Hecht appeared before the board for this proposal.

MR. KANE: Repeat of the first time around.

MR. HECHT: Sign's been there since 1976, unfortunately, they never got a C.O., took out a building permit, all we're trying to do is make it legal.

MR. KANE: Not chaining the existing sign whatsoever?

MR. HECHT: Just trying to make it legal.

MR. KANE: How long has the sign been there?

MR. HECHT: 1976.

MR. KANE: It's an illuminated sign?

MR. HECHT: No.

MR. KANE: Doesn't block any traffic?

MR. HECHT: No, it's set back off the highway.

MR. KANE: We'll go right to the public hearing portion. Anybody in the public here for this particular meeting? Please stand up and give your name and address.

MS. MASON: On March 31, 31 addressed envelopes were mailed out.

MR. KANE: Any responses at all?

MS. MASON: No.

MR. KANE: Public portion is closed. Gentlemen, any other questions?

MR. KRIEGER: This isn't any higher than other signs in the area, is it?

MR. HECHT: It's lower than most of them.

MR. KRIEGER: It's not larger than other signs in the area?

MR. HECHT: No.

MR. MC DONALD: You're not doing anything, just going to be--

MR. HECHT: Just trying to make it legal.

MR. REIS: Ask if this was a lighted sign?

MR. KANE: Yeah, it's non-illuminated.

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we grant Mr. Eugene Hecht his variance for 161 Windsor Highway for the existing sign.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

M & Y BUILDERS, INC (#03-10)

MR. KANE: Request for 62,281 sq. ft. minimum lot area, 91 ft. minimum lot width, 11 ft. & 18 ft. required side yard setback, 38 ft. required rear yard setback, 2% developmental coverage to remove existing mobile home and construct a two story house on East Green Road in an R-1 zone. Mr. Reis is going to come around for anybody that wants to speak in this portion of the public hearing, just write your name and address on the sheet. I gather the rest of you are here for this?

FRANK COBB, ESQ.: Mr. Chairman and members of the board, my name is Frank Cobb, I was here at the preliminary meeting and representing the applicant. One of the questions that was raised at the preliminary meeting is a question about what house was going to be built so I'd like to at least give you each a copy of the proposed plan. Someone thought if we put a raised ranch up we might come back later and ask for another variance but this is not a raised ranch and we do not intend to come back. And I'm going to leave one for Mr. Reiss, if I may. I'm going to give a very short presentation, I have my client here, one of the officers, Mr. Grossman, and the engineer's here, but what I'd like to do, Nelson Pierre has prepared and I didn't want him to waste his work, so if I may, this shows the lot in question. I don't know where you want it, whether you want to hang it up or leave it here but if you want to look at it.

MR. BABCOCK: Mike, do you have a map? Would you like to look at one?

MR. KANE: Yeah, you got one?

MR. MC DONALD: Here, we're done with it.

MR. COBB: Mr. Chairman and gentlemen, I just want to review, this is an existing lot that has a trailer built on it. At the time the trailer was built, the zoning requirements were substantially less than now. My client bought the property, we'd like to demolish the trailer and put up a one-family house. Now, the variances are required primarily because we have a lot



that's a little over 17 1/2 thousand square feet and that's the existing lot. Under your current zoning, if we wanted to buy a lot and build in this zone we'd have to have 80,000 square feet but we only have 17,790 square feet. The same thing with the minimum width, which is 175 feet, we have an existing lot which only has 84, there's nothing we can do about that. Again, the required side yard in a total side yard don't have to do primarily with the bulk of the lot but the shape of the lot and to put a house on it under your current zoning, it's just impossible to conform to the side yard and the combined side yard we have the same thing with the rear yard. Now the frontage again we need the variance but we really can't do much about it, we have an existing lot with the existing frontage. All right, the minimum floor area, we didn't need anything. Development coverage, again, we're over by permitted is 20 and we have 22, we're over by 2 percent. Again, all it is is primarily due to constructing a house, a house that can be sold at a reasonable profit. If we had to conform to zoning, it would be impossible to really build any house. I do want to point out if I may that in your literature that's submitted when applications are made before the board, the statute, the Town Law recites five things to consider, I'm not going to go through all five things, I'm just going to suggest to you that I believe this application meets all the criteria and the primary criteria. The first thing that's mentioned in the Town Law is that an application before the Zoning Board of Appeals that the benefit to the applicant should be considered as opposed to any real detriment to the community. I think in this case, we have an existing lot with a trailer on it, we want to improve the neighborhood, I think we meet those requirements and if there's any questions, the engineer is here and the architect.

MR. KANE: The shaded-in area is this blacktop?

MR. BABCOCK: It's a gravel drive.

MR. KANE: It's going to be gravel all the way up and stay that way?

MR. BABCOCK: Yes.

MR. KANE: Is that part of the developmental coverage?

MR. BABCOCK: No.

MR. KANE: How many square feet as far as the house?

MR. COBB: Mr. Grossman, why don't you come up, this is an officer of the corporation, Mr. Grossman.

MR. KANE: I looked and just didn't see total square feet on the house.

MR. GROSSMAN: Approximately, 2,500 square feet.

MR. KANE: Thank you. So it's not an overly big home?

MR. GROSSMAN: No.

MR. KRIEGER: Would it be similar in size and appearance to other homes in the neighborhood?

MR. GROSSMAN: That's correct.

MR. KRIEGER: If I interpret the map correctly, all the property surrounding this parcel is in common ownership, it's all owned by the same person except this, is that correct?

MR. COBB: Well, this is the only property we own.

MR. KRIEGER: All the property around it is owned by somebody else?

MR. COBB: That's correct so we do not have an opportunity to purchase any additional property.

MR. KANE: Gentlemen, at this point, I want to open it up to the public or do you have any questions right now? At this point, I'll open it up to the public. If want to, if you have any questions, you have something to say, please speak up, state your name and your address and speak clearly.

MR. BRACCO: Mike Bracco, my address is 3 West Green

Road, it's my mailing address. I'm the lake front bordering their rear yard, essentially. If you don't mind, I'm going to read it because I have a mass of information on this. As owner of the lake bordering the rear of lot 5351-77.1, I object to the proposed variance request of M & Y Builders for the following reasons. Number 1, rear setback amount at 12 foot proposed setback, it's only 24 percent or less than one quarter of the required 50 foot setback, this is not acceptable to me. Furthermore, it's since the setback is from a lake frontage, it's directly in line of sight of all lake bordered properties, crowding the structure 12 feet from the shoreline would diminish the property value and the values of our property owners abutting the lake as well whether or not they directly adjoin 155177.1. Finally point source contamination of the lake due to construction methods, materials used for the structure and lateral effluent discharge would have to be clearly and extensively addressed if the proposed 12 foot setback request is granted. I, the lake owner would strongly suggest the Town of New Windsor consult with the DEC before granting such a variance. Number 2, minimum lot area, the site is only 17,719 square feet, this is 22 percent or a little over 1/5 of the required 80,000 square foot lot size. Again, such crowding would diminish property values of myself and others abutting the lake. Incidentally, to refute something that he said, the houses in the region from the plans that I saw at the building department this would not be equivalent to the houses in the region.

MR. KANE: What sizes are the houses?

MR. KENARY: They're approximately that size or they're, most of them start out about 1,000 square feet, my grandfather built them all.

MR. KANE: But they're considerably older?

MR. KENARY: Yes, for the most part. One burnt down and was replaced but for the most part, they're on East Green Road, there's only one house that's been built recently.

MR. MC DONALD: That two story one that we're looking

at in the pictures because I see a two story one?

MR. BABCOCK: Down towards 207.

MR. KENARY: Right. If there's been new plans submitted tonight, I can't respond directly to those cause I haven't seen them yet.

MR. KANE: Can you show me because I don't see it at all? Can you show me where the lake is on this cause I don't see it on here?

MR. BABCOCK: Right here, see this line, that's the water edge so he's really not even 12 foot from the water edge.

MR. KENARY: I haven't seen the new deed cause it's not on public file yet, at least my information old deeds always say to the high water mark and it gave direction and bearings and so forth saying that at or approximately but it's to the high water mark.

MR. BABCOCK: Mr. Chairman, when I visited the site, there's a mobile home on the site, I'm not sure but I would say that it's probably the same distance, right now, the mobile home.

MR. KENARY: I would say it's further back than the proposed 12 feet.

MR. PIERRE: My name is Nelson Pierre, I'm the engineer and essentially, the new house will be replacing the mobile home facing the lake, it will be about the same line, build line.

MR. KANE: Same building line as where the mobile home is right now?

MR. BABCOCK: The mobile home is close to the lake also.

MR. KANE: Thank you.

MR. KENARY: I have more.

MR. KRIEGER: So this is, before you leave that point, this is the building lot in a row of building lots of approximately the same size, is that correct what the map tells me?

MR. KENARY: The building lots, yes.

MR. KANE: All the lots on the lake front or all are approximately the same size?

MR. KENARY: Yes.

MR. KANE: According to the map they appear to be that way.

MR. KENARY: In fact, I was going to finish, while there's some properties with structures already bordering the lake, they greatly predate the current zoning, most of them were done in the '50s. Number 3, minimum lot width, the 84 foot sight is only 48 percent or less than half of the required 175 foot width and this would result in crowding diminished property values as previously described. Since I'm the lake owner, I can't necessarily say what putting wells on top of septic tanks on top of wells would do since that doesn't directly affect me for a well or septic system get to the lake part but when my grandfather built these, some of these other houses and they were on such a small lot, we certainly didn't know as much as we do now about placement distances and stuff like that, plus I might also add this, a lot of the original buildings were built as summer cottages, some were never even completely closed in, a lot of different things so that these are, other houses are already there, that doesn't mean that on such small size lots, doesn't mean that you should keep doing it.

MR. KANE: So in essence are you against any building on any of those lots that are there? Because as they need to be changed over, they'll probably all need some kind of a variance one way or the other.

MR. KENARY: There's not many left to do that on there, there's essentially, actually, this is the only lot it could be done on on that side of the lake.

MR. KANE: Some of the other homes were older from the '50s.

MR. KENARY: Right.

MR. KANE: Are they individually owned at this point?

MR. KENARY: Yes.

MR. KANE: So at some point those homes may need to be changed and then once they change, would they need variances, Mike?

MR. BABCOCK: If they went any bigger than the footprint that's there now.

MR. KANE: As long as they stay with the same footprint.

MR. BABCOCK: If one of the houses burnt down, they can build the exact same house. If they wanted to build a bigger house, they'd be here for all the, practically all the same variances.

MR. KENARY: Point number four, septic system, proposed structure is three bedrooms, but the septic system on site approved in 1972 according to records is for a two bedroom structure capacity. The site map for the proposal does not seem to indicate whatever change is necessary to meet present codes. Without this information, I cannot evaluate the impact on my property and therefore cannot endorse the proposed structure. Number 5, removal of the existing trailer on the site is acceptable, especially since it's in existence to the best of my knowledge and information in violation of the Town of New Windsor building codes and hence illegal. Do you want to ask why?

MR. KANE: Present whatever you're going to present.

MR. KENARY: This all applies to SBL-55177.1, as I note otherwise, information about trailer number one application for installation of septic system was made in September of '72 and approved in November of '72.

Number 2, from the tax rolls, there's no mention of a trailer at this site until 1972. Number 3, the center line survey of East Green Road used for dedication of the road to the Town of New Windsor dated August of 1965 shows no building structure on the site, trailer or otherwise. Number 4, my personal recollection is that there's no trailer on the site while I was growing up in the '60s but I cannot put a definite date on the installation, however, the older family members can. My brother says it was at least after 1968, my sister says on or about 1972. Another response to Hill & Dale Abstract dated October 14, 1986 in the building file refers to a house structure on 55177.2. Back then, it was listed as 55-177 and this does not represent any structure on 55-1-77.1. This letter on file in the building department was under the file of 55-1-77.1 and maybe a course of confusion as to the installation date of the trailer. From a recent conversation with one of the New Windsor town building inspectors, I was informed that if the trailer was installed before 1966, there would be no C.O., but if it was after 1966, it would have to adhere to adopted building codes and have a C.O. There's no C.O. on file that I could find and no evidence of installation prior to 1972. If this is so, the trailer would be in violation, I was told by the building inspector to present my findings at this public hearing.

MR. KANE: Okay.

MR. KENARY: Thank you.

MR. KANE: Anybody else?

MR. KENARY: And I have maps.

MR. KANE: Anybody else like to speak?

MR. KERRAHAN: Bob Kerrahan, I'm a neighbor of his.

MR. KANE: You're in agreement with this gentleman?

MR. KERRAHAN: Yes, totally with everything.

MR. BRACCO: My name is Michael Bracco, I live at 7

East Green Road, I believe my house is the photograph that you mentioned, the two story home. My concern was the pond, building around the pond and my other concern was the septic system because there's a very low water table there and I had to drill very deep into the ground to get water and I had to build a very large septic or leach field system with an expansion for that. And my concern was if the septic system, there was problem with it, I know there's existing ones there, I know my neighbor has a dug well, means that the well is very close to the ground, that it's prone to flooding in that area and I wouldn't want to have a problem with my well becoming contaminated or any area when the ground is disturbed and they dig, there's a problem with the pond cause it's a beautiful pond and/or lake and that's my concern, basically. Building a house has to be done, but I just don't want to have any problem later on down the road with something being in the water, you know, that's the whole thing that my concern is the pond and the septic system.

MR. KANE: Thank you. Anybody else? We'll close the public portion of the hearing. How many mailings did we send out?

MS. MASON: On March 18, we mailed out 18 addressed envelopes.

MR. KANE: Any responses in the mail?

MS. MASON: No.

MR. KANE: Gentlemen, back to the board. Questions?

MR. RIVERA: Were there any environmental impact studies conducted?

MR. COBB: Well, can I respond to the--

MR. KANE: Please do.

MR. COBB: The public hearing's over. First of all, to answer your question probably not because this is the type of application that under SEQRA would not require, it's an unlisted type of SEQRA, which means it would



not require a SEQRA determination. However, just I think the only real question that's been raised that might affect SEQRA is the septic systems. I believe that if in fact the variances are granted, we still have to go to the building department to get a building permit and the building department would require whatever's necessary to ensure that whatever is required for the septic system is done, otherwise, they will not give a permit or C.O. So that would be the only issue that's raised in respect to SEQRA. And normally, this type of both bulk variance application does not require SEQRA determination, I do want to point out. I can understand the gentleman who's lived here probably all his life, there's a pond that they'd like to keep. This property, one of the reasons my client purchased the property is because it fronts or backs on the pond, it's an attraction, it's something that we like, it's something that we're going to certainly not harm. The only other point I'd like to make is when you talk about a rear yard, the rear yard to a pond, even though the pond is there, it's not as if we're talking about a rear yard to a structure, we're interfering with someone's light or air or we're too close to their house, so I believe that everything that the gentleman said is something that he's entitled to talk about, he lived here all his life, he'd like to keep the area as best he can, but then on the other hand, we have a lot that I believe we're entitled to build a house on and have a, as long as it's a reasonable size house, and we're replacing the trailer I believe, although I don't have personal knowledge, I have to look through my file, but when we purchased this property, it's my recollection there was a building permit and a C.O. for the trailer, but I can't guarantee it because I haven't looked at the file but whether it's a legal or illegal trailer, we're going to remove it and we want to replace it with something we think will benefit the neighborhood. So in response to the gentleman, I know how he feels, I lived in a community in Rockland County, brought up and born in Rockland County and things change and we'd like to keep it the same but I don't think we're harming the neighborhood by taking a trailer out and putting a house.

MR. RIVERA: Thank you.

MR. KANE: Mike?

MR. REIS: Is it a fact I've heard different interpretations, is it a fact that the proposed building is going to be the same footprint as the existing trailer or is it going to be larger?

MR. BABCOCK: Larger. The rear yard they're saying is approximately the same, going to be the same as where the mobile home is, other than that, the mobile home is probably a 12 x 60, I'm guessing.

MR. GROSSMAN: It's approximately 12 x 60 and as far as the back of the property is concerned, we're not going any deeper than the trailer is currently, but it's practically impossible to put up a house 12 x 60 so we just brought the house a little more up front.

MR. REIS: What's the footprint of the house, sir?

MR. GROSSMAN: The footprint is right on top of the trailer, the existing trailer right now, plus a little bit more to the front.

MR. REIS: Plus 10 feet.

MR. GROSSMAN: Ten foot towards the front.

MR. REIS: Thank you. The septic is in the front.

MR. GROSSMAN: Another issue I wanted to bring up, the current trailer that's there now is approximately 10, 12 x 60, but there's an additional extension added on to the room in the front coming out another 12 to 13 feet, then there's another entranceway with a porch on the right side of the trailer coming out an additional 12 feet. So technically, the house is going to be approximately on the existing footprint which is right now we're just demolishing what's there, question of 3, 4 or 5 feet but we're taking down a 40 year old trailer with additions added on from all sides with a beautiful 2 1/2 thousand square feet structure. We tried to keep it to the minimum, these days the average person is not

going to touch a house less than about 2 1/2 thousand square feet. We made it a colonial so we shouldn't have to take too much property, it should be a little higher so the footage will be in the structure rather than going more onto the property. So we tried to keep it to the bare minimum of what was currently there with the trailer and the extensions that were there currently. So basically it's on the footprint of what's there right now.

MR. KANE: Thank you.

MR. PIERRE: If I may add, there's no brand new septic system proposed, an existing system serving approximately three bedrooms in the trailer we're proposing a three bedroom house, so that the, we expect the existing system to service the house. There's no new well so that we expect minimum disturbance to the existing property, except what's required for the footprint of the building.

MR. KANE: But you feel the existing--you're going to put in a new septic?

MR. PIERRE: No, no new system proposed.

MR. KANE: You feel the existing septic system is enough to handle this home at this point?

MR. PIERRE: Yes.

MR. KANE: Mike, do we have any information? That's my concern.

MR. BABCOCK: We're going to talk about that at the building permit, you bringing it up, the sewer permit that was issued is for a two bedroom, he's the engineer, he will have to certify that and he will have to test it and certify it and apparently, he's done that and he's telling us that it is sufficient for this house which he will have to tell us that to get this permit.

MR. GROSSMAN: I'd like to verify one thing is that although the septic is approved for two bedrooms and

the trailer is two bedrooms, there's an additional bedroom to the front so technically that septic is servicing a three bedroom structure.

MR. KANE: In your knowledge, has there ever been any problem with the septic on this property with overflowing or with, you know, I've heard stories about a little bit of flooding, has there been any problems with the septic in past history with this property?

MR. COBB: We don't know of any but you've got to remember we just purchased the property, so I don't want to make a representation.

MR. KANE: From what you know?

MR. GROSSMAN: I had spoken to the owner of the property, the father lives across the street and his word was it runs as good as new, that was his word as far as the septic is concerned, he says never had a problem with the septic and he should have no problem, the rest I left up to the engineer.

MR. PIERRE: We haven't performed any tests on the system but from my understanding, my investigation there have not been any reported problems of the system.

MR. KANE: Thank you.

MR. REIS: Can you tell us whether the trailer has been occupied or is it still occupied?

MR. GROSSMAN: It was occupied until a couple months ago, as far as I know, as far as when I purchased it, the man told me that the owner of the property that they had had moved out probably a few months prior to that and he didn't want to re-rent it because he wanted to sell the property, that's according to what the owner told me, that's all I can say.

MR. KANE: In the building of the home, are you going to be cutting down anymore trees in that specific area to clear?

MR. GROSSMAN: Clearing is all there.

MR. REIS: Does your plan call for a three bedroom plus a den?

MR. GROSSMAN: It has three bedroom and a study.

MR. MC DONALD: That study could be very easily used as a fourth bedroom though, couldn't it?

MR. GROSSMAN: It's possible but we didn't supply a bathroom technically for that extra.

MR. MC DONALD: There's one right outside the door there. You have a different one that I'm looking at?

MR. KANE: Technically you can put any name you want on them.

MR. MC DONALD: It could be a fourth bedroom.

MR. GROSSMAN: Well, we have no room downstairs to make a study, so we suggested, and the way the square footage of the house went, there was room to make a room there, so we just figured you can make a den or you can make a study or playground or playroom or something and if you want, we could whoever purchases this property, we can specify that it's sold as a three bedroom and it should not be used as a four bedroom.

MR. BABCOCK: Maybe to answer your question on the study or Mr. McDonald's question on the study, at the building department stage, I have just seen these plans now, with a study that has a closet, we're going to consider that as a bedroom. So they're either going to have to remove that or they're going to have to upgrade the septic system or have their engineer certify that it can handle a four bedroom house.

MR. KANE: Fair enough.

MR. MC DONALD: Cause there's a closet.

MR. GROSSMAN: What are you saying, remove the closet?

MR. BABCOCK: Yeah, if there's a study, if it's got a closet. We're going to consider that.

MR. GROSSMAN: Okay, although I have one study, I have three closets.

MR. BABCOCK: Well, in the septic system area, if this was in a sewer area, we wouldn't be considering it.

MR. GROSSMAN: I have no problem with that eliminating the closets, no problem.

MR. COBB: Mr. Chairman, if the board were to grant this variance, we would certainly accept any reasonable conditions, one, if it's one about either removing the closet and certifying to the building department that the septic system will qualify for this house, whether it has an additional study or not, but I believe just so there's no misunderstanding we're not trying to do something that's not going to be known about so that any conditions that the board feels are reasonable we would accept.

MR. KANE: Thank you.

MR. REIS: Do you own the property or subject to?

MR. GROSSMAN: Yes, we own the property.

MR. REIS: I'd like to make a suggestion or a recommendation off the record.

(Discussion was held off the record)

MR. BABCOCK: I think the square footage and I think they were guessing, they didn't really have the figures, but the plans that they gave me the square footage shows 1,848 square foot for this house.

MR. KANE: So it's not that big.

MR. BABCOCK: When you asked the applicant what the square footage was they said it's around 2,500.

MR. KANE: It's 18 which is significantly smaller.

MR. MC DONALD: I was wondering where the 26 came from.

MR. BABCOCK: On the front, Mr. Chairman, in the little box bulk requirements there 1,848 square foot is what the house is.

MR. KANE: Proposed, okay.

MR. REIS: This is a step in the right direction.

MR. GROSSMAN: Okay, so you can realize we did try to keep it really on the footprint of what's currently there now.

MR. KANE: As was pointed out, if the variance is granted to you, it doesn't relieve you of any obligations to the DEC or any other.

MR. GROSSMAN: Correct.

MR. COBB: We understand that.

MR. KANE: Gentlemen?

MR. REIS: Is it within our power to make a recommendation that it should be accommodating a three bedroom home maximum, not this particular layout where you have a potential of a fourth being used as a fourth?

MR. KRIEGER: Yes, yes, that is a restriction.

MR. KANE: Yes, that can be put in.

MR. MC DONALD: Can that be put in as a restriction?

MR. KANE: Yes.

MR. PIERRE: Mr. Chairman, if it's possible, the closets can be removed by enlarging the bedroom, the bathroom that's adjacent to it that would strike out the possibility of having a closet by just drawing the line across and enlarging the bathroom, actually the

laundry room.

MR. KANE: Yes, Mike, you can add that stipulation if you want to.

MR. COBB: If the board so requests, we would agree to enclose that area.

MR. REIS: Accept a motion?

MR. KANE: Gentlemen, you all set any? Further questions?

MR. MC DONALD: No.

MR. KANE: Yes, I will.

MR. REIS: I make a motion that we grant M & Y Builders, Inc. their request for their lot area, their lot width, their required rear and side yard setbacks and the developmental coverage with the proviso that the maximum potential bedrooms would be three bedrooms which would necessitate the change of the plan that you have. That say it all?

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. KANE: So you're going to have to address that, keep it to the three bedroom, address that one thing and address the septic with Mike.

MR. COBB: I'm not quite sure if when, who do we have to convince that that other room won't be used as a bedroom?

MR. BABCOCK: You're going to change the plans so you only have three rooms there.



MR. COBB: We can't put the line across which would eliminate the closet?

MR. BABCOCK: No, if you're going to have three bedrooms, right, Mike?

MR. REIS: We want to eliminate the potential, you can be an honest person, but the next person that's going to buy it is going to create a fourth bedroom possibly and we want to eliminate that possibility.

MR. COBB: All right, so the variance is granted provided that the house plan that's submitted for the building permit will only show three bedrooms?

MR. MC DONALD: Right, I think he suggested we go with the laundry room a little bit bigger, that would eliminate the closet.

MR. REIS: You're redesigning the house, going to make a three bedroom home with no further potential.

MR. COBB: We don't want to take up your time, we appreciate it, we're going to have to see how we're going to move around the plan. If not, we're going, we may have to come back but not tonight.

MR. KANE: Thank you. Motion to adjourn?

MR. REIS: So moved.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE

April 14, 2003

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MR. KANE

AYE

Respectfully Submitted By:

A handwritten signature in cursive script, appearing to read "Frances Roth".

Frances Roth  
Stenographer

4/23/03

# TOWN OF NEW WINDSOR ZONING BOARD

## PUBLIC HEARING FOR:

M.E. & Builders

DATE: April 14, 2003

### SIGN-IN SHEET

	NAME	ADDRESS
1.	Michael Konary	7 <del>W</del> GREEN ROAD ROCK TOWN NY
2.	Michael Bracco	3 West Green Rd " " "
3.	Bob Kermahian	26 EAST Green Rd
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